

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<b>STEVE DINWIDDIE,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>CIVIL NO. 08-cv-458-DRH</b>
	)	
<b>JOHN EVANS,</b>	)	
	)	
<b>Respondent.</b>	)	

**MEMORANDUM AND ORDER**

**HERNDON, Chief District Judge:**

Petitioner, a person confined at the Big Muddy River Correctional Center, filed the instant application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Also before the Court is Petitioner's motion to proceed *in forma pauperis* (Doc. 2) and his motion for appointment of counsel (Doc. 3).

Petitioner was civilly committed to the guardianship of the Director of Corrections as a sexually dangerous person on April 29, 1998, following a jury trial. *See Dinwiddie v. Bradford*, No. 3:05-cv-886-GPM (S.D. Il.) (report and recommendation, January 3, 2008). Petitioner has previously sought and been denied habeas corpus relief pursuant to § 2254 with regard to this original 1998 judgment. *Id.* In that prior action, Petitioner's challenge to his original 1998 judgment was dismissed as time barred. *Id.* (Doc. 5). In the instant petition, Petitioner again challenges the original 1998 judgment that is at the root of his present confinement.

Because Petitioner has previously brought and been denied a § 2254 petition for a writ of habeas corpus challenging his original 1998 judgement, the instant action constitutes a second or

successive § 2254 petition. Title 28 U.S.C. § 2244(b)(3)(A) provides that "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." There is no indication that Petitioner has obtained permission from the Seventh Circuit Court of Appeals to maintain the instant § 2254 petition. Because it appears that Petitioner did not first obtain permission from the Seventh Circuit Court of Appeals to maintain the instant § 2254 action in this Court, the Court lacks authority to grant petitioner the relief he seeks.

Accordingly,

**IT IS HEREBY ORDERED** that Petitioner's motion to proceed *in forma pauperis* (Doc. 2) is **GRANTED**.

**IT IS FURTHER ORDERED** that Petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DISMISSED**, without prejudice, for lack of jurisdiction. The Clerk is **DIRECTED** to **CLOSE THIS CASE**.

**IT IS FURTHER ORDERED** that Petitioner's motion for appointment of counsel (Doc. 3) is **DENIED** as moot.

**IT IS SO ORDERED.**

**DATED:** July 9, 2008.

/s/ David R Herndon  
**DISTRICT JUDGE**